Filing Receipt

Received - 2021-09-16 01:51:09 PM
Control Number - 52345
ItemNumber - 23

PROJECT NO. 52345

CRITICAL NATURAL GAS FACILITIES AND ENTITIES	**§**	**PUBLIC UTILITY COMMISSION**
	§	
	§	**OF TEXAS**

PROPOSAL FOR PUBLICATION OF AMENDENTS TO 16 TAC §25.52 AS APPROVED AT THE SEPTEMBER 16, 2021 WORK SESSION MEETING

The Public Utility Commission of Texas Staff proposes amendments to existing 16 Texas Administrative Code (TAC) §25.52, relating to Reliability and Continuity of Service. These proposed amendments will implement amendments to the Public Utility Regulatory Act (PURA) enacted by the 87th Texas Legislature. Specifically, these amendments will implement changes made to PURA §38.072(a) and (b), adding end stage renal disease facilities to the list of health facilities prioritized during system restoration following an extended power outage. These amendments will also implement PURA §38.074 by requiring a critical natural gas facility to provide critical customer information to the utility from which it receives electric delivery service and requiring the utility to incorporate this information into its load-shed and restoration planning.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will change the number of individuals subject to the rule's applicability by applying certain requirements to municipally owned utilities and electric cooperatives, which were previously excluded from the rule; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Harika Basaran, Economist, Market Analysis Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Ms. Basaran has also determined that, for each year of the first five years the proposed rules and amendments are in effect, the anticipated public benefits expected as a result of the adoption of the proposed amendments will be the alignment of commission rules with the requirements of PURA §38.072 and §38.074. Ms. Basaran also anticipates that the proposed rules will assist utilities in keeping critical facilities from losing electric service during energy emergencies. Ms. Basaran does not believe there will be any major economic costs to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking on October 12, 2021, at 9:30 A.M. in the Commissioners' Hearing Room, 7th floor, William B. Travis Building if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by October 7, 2021. If no request for public hearing is received and the commission staff cancels the hearing, it will file in this project a notification of the cancellation of the hearing prior to the scheduled date for the hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by **October 7, 2021**. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to modify the proposed rules on adoption. **Please include a bulleted executive summary to assist the commission in reviewing the filed comments in a timely fashion**. All comments should refer to project number 52345.

Statutory Authority

These new rules are proposed under the following provision of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides

the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §38.072, which requires the commission to adopt a rule requiring an electric utility to give end stage renal disease facilities the same priority it gives to hospitals in the utility's emergency operations plan for restoring power after an extended power outage; and §38.074, which requires the commission to, in collaboration with the Railroad Commission of Texas, rules to establish a process to designate certain natural gas facilities and entities as critical natural gas customers during energy emergencies and to require utilities to prioritize these facilities for load-shed and power restoration purposes during an energy emergency.

Cross reference to statutes: PURA §§14.001, 14.002, 38.072, and 38.074.

§25.52. Reliability and Continuity of Service.

(a) **Application.** This section applies to all electric utilities as defined by §25.5(41) of this title (relating to Definitions) ~~the Public Utility Regulatory Act (PURA)~~ and all transmission and distribution utilities as defined by §25.5(137) of this title~~PURA §31.002(19)~~. When specifically stated, this section also applies to electric cooperatives and municipally-owned utilities (MOUs). The term "utility" as used in this section ~~shall~~ means an electric utility and a transmission and distribution utility. In subsection (h), the term "utility" also includes electric cooperatives and MOUs.

(b) **General.**

(1) Every utility must~~shall~~ make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility must~~shall~~ reestablish service within the shortest possible time.

(2) Each utility must~~shall~~ make reasonable provisions to manage emergencies resulting from failure of service, and each utility must~~shall~~ issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.

(3) In the event of national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service entities on a temporary basis until normal service to these agencies can be restored.

(4) Each utility must~~shall~~ maintain adequately trained and experienced personnel throughout its service area so that the utility is able to fully and adequately comply with the service quality and reliability standards.

(5) With regard to system reliability, a~~no~~ utility must not~~shall~~ neglect any local neighborhood or geographic area, including rural areas, communities of less than 1,000 persons, and low-income areas.

(c) **Definitions.** The following words and terms, when used in this section, ~~shall~~ have the following meanings unless the context ~~clearly~~ indicates otherwise.

(1) **Critical loads** — Loads for which electric service is considered crucial for the protection or maintenance of public safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment.

(2) **Critical natural gas** – A facility designated as a critical gas supplier by the Railroad Commission of Texas under §3.65(b) of this title (relating to Critical Designation of Natural Gas Infrastructure) unless the critical gas supplier has obtained an exception from its critical status under §3.65(d) of this title. Critical natural gas is a critical load during an energy emergency.

(3~~2~~) Interruption classifications:

(A) **Forced** — Interruptions, exclusive of major events, that result from conditions directly associated with a component requiring that it be taken out of service immediately, either automatically or manually, or an interruption caused by improper operation of equipment or human error.

(B) **Scheduled** — Interruptions, exclusive of major events, that result when a component is deliberately taken out of service at a selected time for purposes of construction, preventative maintenance, or repair. If it is possible to defer an interruption, the interruption is considered a scheduled interruption.

(C) **Outside causes** — Interruptions, exclusive of major events, that are caused by influences arising outside of the distribution system, such as generation, transmission, or substation outages.

(D) **Major events** — Interruptions that result from a catastrophic event that exceeds the design limits of the electric power system, such as an earthquake or an extreme storm. These events shall include situations where there is a loss of power to 10% or more of the customers in a region over a 24-hour period and with all customers not restored within 24 hours.

(4~~3~~) **Interruption, momentary** — Single operation of an interrupting device which results in a voltage zero and the immediate restoration of voltage.

(5~~4~~) **Interruption, sustained** — All interruptions not classified as momentary.

(6~~5~~) **Interruption, significant** — An interruption of any classification lasting one hour or more and affecting the entire system, a major division of the system, a community, a critical load, or service to interruptible customers; and a scheduled interruption lasting more than four hours that affects customers that are not notified in advance. A significant interruption includes a loss of service to 20% or more of the system's customers, or 20,000 customers for utilities serving more than 200,000 customers. A significant interruption also includes interruptions adversely affecting a community such as interruptions of governmental agencies,

military bases, universities and schools, major retail centers, and major employers.

(7~~6~~) **Reliability indices:**

(A) **System Average Interruption Frequency Index (SAIFI)** -- The average number of times that a customer's service is interrupted. SAIFI is calculated by summing the number of customers interrupted for each event and dividing by the total number of customers on the system being indexed. A lower SAIFI value represents a higher level of service reliability.

(B) **System Average Interruption Duration Index (SAIDI)** -- The average amount of time a customer's service is interrupted during the reporting period. SAIDI is calculated by summing the restoration time for each interruption event times the number of customers interrupted for each event, and dividing by the total number of customers. SAIDI is expressed in minutes or hours. A lower SAIDI value represents a higher level of service reliability.

(d) **Record of interruption.** Each utility must~~shall~~ keep complete records of sustained interruptions of all classifications. Where possible, each utility must~~shall~~ keep a complete record of all momentary interruptions. These records must~~shall~~ show the type of interruption, the cause for the interruption, the date and time of the interruption, the duration of the interruption, the number of customers interrupted, the substation identifier, and the transmission line or distribution feeder identifier. In cases of

emergency interruptions, the remedy and steps taken to prevent recurrence mustshall also be recorded. Each utility mustshall retain records of interruptions for five years.

(e) **Notice of significant interruptions.**

(1) **Initial notice.** A utility mustshall notify the commission, in a method prescribed by the commission, as soon as reasonably possible after it has determined that a significant interruption has occurred. The initial notice mustshall include the general location of the significant interruption, the approximate number of customers affected, the cause if known, the time of the event, and the estimated time of full restoration. The initial notice mustshall also include the name and telephone number of the utility contact person, and mustshall indicate whether local authorities and media are aware of the event. If the duration of the significant interruption is greater than 24 hours, the utility mustshall update this information daily and file a summary report.

(2) **Summary report.** Within five working days after the end of a significant interruption lasting more than 24 hours, the utility mustshall submit a summary report to the commission. The summary report mustshall include the date and time of the significant interruption; the date and time of full restoration; the cause of the interruption, the location, substation and feeder identifiers of all affected facilities; the total number of customers affected; the dates, times, and numbers of customers affected by partial or step restoration; and the total number of customer-minutes of the significant interruption (sum of the interruption durations times the number of customers affected).

(f) **Priorities for power restoration to certain medical facilities~~Power Restoration to Certain Medical Facilities~~.**

(1) A utility must~~shall~~ give the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage, as defined by Texas Water Code, §13.1395, to the following:

(A) An assisted living facility, as defined by Texas Health and Safety Code, §247.002;

(B) A facility that provides hospice services, as defined by Texas Health and Safety Code, §142.001; ~~and~~

(C) A nursing facility, as defined by Texas Health and Safety Code, §242.301; and

(D) An end stage renal disease facility, as defined by Texas Health and Safety Code, §251.001.

(2) The utility may use its discretion to prioritize power restoration for a facility after an extended power outage in accordance with the facility's needs and with the characteristics of the geographic area in which power must be restored.

(g) **System reliability.** Reliability standards~~Standards shall~~ apply to each utility~~,~~ and are~~shall be~~ limited to the Texas jurisdiction. A "reporting year" is the 12-month period beginning January 1 and ending December 31 of each year.

(1) **System-wide standards.** The standards must~~shall~~ be unique to each utility based on the utility's performance, and may be adjusted by the commission if appropriate for weather or improvements in data acquisition systems. The standards will be the average of the utility's performance from the later of

reporting years 1998, 1999, and 2000, or the first three reporting years the utility is in operation.

(A) **SAIFI.** Each utility mustshall maintain and operate its electric distribution system so that its SAIFI value doesshall not exceed its system-wide SAIFI standard by more than 5.0%.

(B) **SAIDI.** Each utility mustshall maintain and operate its electric distribution system so that its SAIDI value doesshall not exceed its system-wide SAIDI standard by more than 5.0%.

(2) **Distribution feeder performance.** The commission will evaluate the performance of distribution feeders with ten or more customers after each reporting year. Each utility mustshall maintain and operate its distribution system so that no distribution feeder with ten or more customers sustains a SAIDI or SAIFI value for a reporting year that is more than 300% greater than the system average of all feeders during any two consecutive reporting years.

(3) **Enforcement.** The commission may take appropriate enforcement action, including action against a utility, if the system and feeder performance is not operated and maintained in accordance with this subsection. In determining the appropriate enforcement action, the commission willshall consider:

(A) the feeder's operation and maintenance history;

(B) the cause of each interruption in the feeder's service;

(C) any action taken by a utility to address the feeder's performance;

(D) the estimated cost and benefit of remediating a feeder's performance; and

(E) any other relevant factor as determined by the commission.

(h) **Critical natural gas.** In accordance with §3.65 of this title, critical natural gas standards apply to each facility designated as a critical gas supplier in the state.

(1) **Critical customer information.**

(A) The operator of a critical natural gas facility must provide critical customer information, as defined by §3.65(a)(3) of this title, to the entities listed in clauses (i) and (ii) of this subparagraph. The critical customer information must be provided in usable format via email.

(i) The utility from which the critical natural gas facility receives electric delivery service; and

(ii) For critical natural gas facilities located in the ERCOT region, the independent organization certified under PURA §39.151.

(B) The commission will maintain on its website a list of utility email addresses to be used for the provision of critical customer information under subparagraph (A) of this paragraph. Each utility must ensure that the email address listed on the commission's website is accurate. If the utility's email address changes or is inaccurate, the utility must immediately provide the commission with an updated email address.

(C) Within five business days of receipt, the utility must evaluate the critical customer information for completeness and provide written notice to the operator of the critical natural gas facility regarding the status of its critical natural gas designation.

(i) If the information submitted is incomplete, the utility's notice must specify what additional information is required.

(ii) If the information submitted is complete, the utility's notice must notify the operator of the facility's critical natural gas status, the date of its designation, any additional classifications assigned to the facility, and notice that its critical status does not constitute a guarantee of an uninterrupted supply of energy.

(D) A utility or an independent system operator receiving critical customer information from a critical natural gas facility under this subsection must not release critical customer information to any person unless authorized by the commission or the operator of the critical natural gas facility. This prohibition does not apply to the release of such information to the commission, the Railroad Commission of Texas, the utility from which the critical natural gas facility receives electric service, or the independent system operator for the region in which the critical natural gas facility is located. This prohibition also does not apply if the critical customer information is redacted, aggregated, or organized in such a way as to make it impossible to identify the critical natural gas facility to which the information applies.

(2) **Prioritization of critical natural gas facilities.** A utility must incorporate critical natural gas facilities into its load-shed and restoration planning.

(A) A utility must prioritize critical natural gas facilities for load-shed purposes during an energy emergency.

(B) A utility may use its discretion to prioritize power delivery and power restoration among critical natural gas facilities and other critical loads on its system.

(C) A utility must consider any additional guidance or prioritization criteria provided by the commission, the Railroad Commission of Texas, or the independent system operator for its power region to prioritize among critical natural gas facilities during an energy emergency.

This agency certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF SEPTEMBER 2021 BY THE PUBLIC UTILITY COMMISSION OF TEXAS
ANDREA GONZALEZ